

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2396 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

RAMESHCHANDRA B. KAHDHAR

Versus

CENTRAL EXCISE AND CUSTOMS DEPTT.

Appearance:

1. Special Civil Application No. 2396 of 1993
MR MB GANDHI for Petitioner
MR BB NAIK for Respondent No. 1, 2

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 21/08/96

ORAL JUDGEMENT

This Special Civil Application has been filed by Mr Rameshchandra B Khandor seeking directions to reassess the rent of the subject premises for the period 1982-1987, and to make payment on that basis.

2. The say of the petitioner is that his premises was rented out to the respondents in the year 1975 on a rent of Rs.1.25 sq.ft. which was fixed at Rs. 1,626/- per month. As per the agreement, the rent was required to be revised at an interval of 5 years.

3. This application is opposed by Mr B B Naik, learned Addl. Central Government Standing Counsel on the ground of delay in approaching this Court. I have considered this aspect and rejected the contention in an identical matter i.e. Special Civil Application No.2397/93. As per the certificate issued by the CPWD dated 24.10.1994, the department has assessed the rent at Rs. 3250/- worked out according to the principles laid down by the Directorate of the CPWD and Rs. 4452/- as per the prevailing market rates. Thus, it would be convenient to fix the monthly rent of the subject premises taking the average of the aforesaid two figures given in the certificate, which comes to Rs. 3,851/-. It is stated that certain amount against the rent has been paid to the petitioner under the interim orders of this Court.

4. In view of this, the Special Civil Application is allowed. The respondents are directed to pay rent to the petitioner for the period 1982-87 in accordance with the certificate dated 24.10.1994 fixing the average rent at Rs. 3,851/-, after making adjustment of the amount paid in excess or short. If excess amount has been paid, the same shall be adjusted against the rent of the subsequent years. The respondent shall undertake the exercise of calculation and pay the amount due if any, to the petitioner within a period of two months from the date of receipt of the writ.

Rule made absolute to the aforesaid extent with no order as to costs.

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FURTHER ORDER

After pronouncement of the judgment, Mr B B Naik, learned Addl. Central Government Standing Counsel submits that the order fixing the rent for the period 1982-87 may be stayed for a period of 4 weeks, with a view to approach the higher forum. This prayer is being opposed by Mr M B Gandhi, learned Advocate for the petitioners. However, it is directed that this order will not be given effect

for a period of 3 weeks.

Date: 21.8.1996

(N N Mathur, J.)